

AMENDED IN ASSEMBLY MAY 9, 2011

AMENDED IN ASSEMBLY APRIL 11, 2011

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 45

Introduced by Assembly Member Hill

December 6, 2010

An act to amend Sections 5384.1 and 5384.5 of the Public Utilities Code, and to ~~add Section 40000.20 to~~ *amend Section 23229.1 of, and to add Section 40000.20 to*, the Vehicle Code, relating to charter-party carriers of passengers.

LEGISLATIVE COUNSEL'S DIGEST

AB 45, as amended, Hill. Charter-party carriers of passengers: alcoholic beverages: open containers.

The Passenger Charter-party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission. The act, except as specified, requires the driver of any limousine for hire operated by a charter-party carrier of passengers (carrier) under a valid certificate or permit to comply with prescribed requirements relating to alcoholic beverages, including ascertaining whether any passenger is under the age of 21 years, reading to the passenger a statement that the consumption of any alcoholic beverage in the vehicle is unlawful, requiring such a passenger to sign the statement, and, if a minor passenger, after signing the statement, is found to be, or to have been, consuming any alcoholic beverage during

the course of the ride, immediately terminating the contract of hire and returning the passenger to the point of origin. The act also subjects the carrier to specified civil penalties, based on the number of offenses, for conviction of a driver, or any officer, director, agent, or employee of the carrier, of a violation of the Vehicle Code that prohibits storage of an opened container of an alcoholic beverage in a motor vehicle.

This bill would expand the application of those alcoholic beverage provisions concerning passengers under the age of 21 years by applying those requirements, except as specified, to the driver of any vehicle used in the transportation of passengers for hire operated by a permitted or certificated carrier. The bill would *subject such a driver to existing open container prohibitions and make the 3rd or subsequent violation of the a specified* open container prohibition by a driver of any vehicle used in the transportation of passengers for hire operating under a valid certificate or permit a misdemeanor. The bill, by creating a new crime, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Brett Studebaker Law.

3 SEC. 2. Section 5384.1 of the Public Utilities Code is amended
4 to read:

5 5384.1. (a) The driver of any vehicle used in the transportation
6 of passengers for hire operated by a charter-party carrier of
7 passengers under a valid certificate or permit shall do all of the
8 following:

9 (1) The driver shall ascertain whether any passenger is under
10 the age of 21 years.

11 (2) If any passenger is under the age of 21 years, the driver shall
12 read to the passenger a statement that the consumption of any
13 alcoholic beverage in the vehicle is unlawful, that no alcoholic
14 beverage may be transported in the passenger compartment of the

1 vehicle, that all alcoholic beverages are required to be carried in
2 the vehicle trunk or other locked compartment, and that, if during
3 the course of the ride any minor is found to be, or to have been,
4 consuming any alcoholic beverage, the contract will be terminated
5 and the customer will be brought back to the point of origin of the
6 ride.

7 (3) After reading the statement described in paragraph (2) to
8 every passenger under the age of 21 years, the driver shall require
9 every passenger under the age of 21 years to sign the statement.
10 The operator of the vehicle shall retain the signed statement for
11 the period required by the commission.

12 (4) If any minor passenger, after signing a statement pursuant
13 to paragraph (3), is found to be, or to have been, consuming any
14 alcoholic beverage during the course of any ride subject to this
15 section, the driver shall immediately terminate the contract of hire
16 and shall return the passengers to the point of origin of the ride.

17 (b) Any failure of a driver to comply with subdivision (a) that
18 results in the conviction of the driver of a violation of Section
19 23225 of the Vehicle Code, shall be subject to the penalties
20 prescribed in Section 5384.5.

21 (c) Notwithstanding any other provision of law, this section
22 does not prohibit a parent or legal guardian from consuming
23 alcoholic beverages in a vehicle used in the transportation of
24 passengers for hire while accompanied by his or her minor children.

25 (d) This section does not apply to the driver of any of the
26 following:

27 (1) A bus, taxicab, or van exempted from this chapter pursuant
28 to Section 5353.

29 (2) A pupil activity bus, including any motor vehicle specified
30 in subdivision (k) of Section 545 of the Vehicle Code.

31 (3) A school pupil activity bus, as defined in Section 546 of the
32 Vehicle Code.

33 (4) A vehicle for a charter-party carrier that has been engaged
34 to provide transportation for minors accompanied by a legal
35 guardian or parent.

36 SEC. 3. Section 5384.5 of the Public Utilities Code is amended
37 to read:

38 5384.5. If the driver of any vehicle used in the transportation
39 of passengers for hire operating under a valid certificate or permit,
40 or any officer, director, agent, or employee of a charter-party carrier

1 of passengers operating vehicles used in the transportation of
2 passengers for hire under such a certificate or permit, is convicted
3 of a violation of Section 23225 of the Vehicle Code, the
4 commission, after a hearing, shall do the following:

5 (a) For a first offense, the commission may impose a civil
6 penalty of not more than two thousand dollars (\$2,000) upon the
7 carrier, as determined appropriate by the commission.

8 (b) For a second offense, the commission may impose a civil
9 penalty of not more than two thousand dollars (\$2,000) upon the
10 carrier or suspend the carrier's *certificate or* permit for not more
11 than 30 days, or both, as determined appropriate by the
12 commission.

13 (c) For a third offense, the commission shall revoke the carrier's
14 *certificate or* permit. A third or subsequent offense shall also be
15 punishable pursuant to Section 40000.20 of the Vehicle Code.

16 *SEC. 4. Section 23229.1 of the Vehicle Code is amended to*
17 *read:*

18 23229.1. (a) Subject to subdivision (b), Sections 23223 and
19 23225 apply to any charter-party carrier of passengers, as defined
20 in Section 5360 of the Public Utilities Code, operating a ~~limousine~~
21 *vehicle used in the transportation of passengers* for hire when the
22 driver of the vehicle transports any passenger under the age of 21.

23 (b) For purposes of subdivision (a), it is not a violation of
24 Section 23225 for any charter-party carrier of passengers operating
25 a ~~limousine~~ *vehicle used in the transportation of passengers* for
26 hire that is licensed pursuant to the Public Utilities Code to keep
27 any bottle, can, or other receptacle containing any alcoholic
28 beverage in a locked utility compartment within the area occupied
29 by the driver and passengers.

30 (c) In addition to the requirements of Section 1803, every clerk
31 of a court in which any driver in subdivision (a) was convicted of
32 a violation of Section 23225 shall prepare within 10 days after
33 conviction, and immediately forward to the Public Utilities
34 Commission at its office in San Francisco, an abstract of the record
35 of the court covering the case in which the person was convicted.
36 If sentencing is not pronounced in conjunction with the conviction,
37 the abstract shall be forwarded to the commission within 10 days
38 after sentencing, and the abstract shall be certified, by the person
39 required to prepare it, to be true and correct. For the purposes of
40 this subdivision, a forfeiture of bail is equivalent to a conviction.

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 40000.20 is added to the Vehicle Code, to
3 read:

4 40000.20. A third or subsequent violation of Section 23225,
5 relating to storage of an opened container of an alcoholic beverage,
6 by a driver of any vehicle used in the transportation of passengers
7 for hire, operating under a valid certificate or permit pursuant to
8 the Passenger Charter-party Carriers' Act (Chapter 8 (commencing
9 with Section 5351) of Division 2 of the Public Utilities Code), is
10 a misdemeanor.

11 ~~SEC. 5.~~

12 *SEC. 6.* No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.